



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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MARY F. MCTIGUE
DIRECTOR

May 21, 1991
AO-91-09

Clifford Askinazi, M.D.
P.O. Box 353
Sudbury, MA 01776

Re: Physician's Political Committee

Dear Dr. Askinazi:

This letter is in response to your April 5, 1991, letter requesting an advisory opinion.

You have stated that you and a group of physician colleagues are forming a political committee to support several candidates. You have asked a number of questions regarding the participation of part-time public employees who, I assume, are physicians as well as physicians appointed to state boards or commissions, with or without compensation. Specifically, you ask if such persons may (a) be part of a political committee, (b) be an officer of such a committee, or (3) be listed on the letterhead as part of the membership of such a committee. You also ask generally if there are any other restrictions that may apply.

Rather than address your questions individually, this letter will answer them in its discussion of the issues which your questions raise.

I. Persons Employed For Compensation

M.G.L. c.55, s.13 provides, in pertinent part:

No person employed for compensation, other than an elected officer, by the commonwealth or any county, city or town shall directly or indirectly solicit or receive any gift, payment, contribution, assessment, subscription or promise

of money or other thing of value for the political campaign purposes of any candidate for public office or of any political committee, or for any political purpose whatever, but this section shall not prevent such person from being members of political organizations or committees.

By its terms, section 13 does not prohibit persons employed for compensation by a governmental entity (hereinafter also referred to as "compensated public employees"), from joining or being part of a political committee. However, the language does restrict such persons' political fund-raising activity.

The clear language of section 13 prohibits any compensated public employee from soliciting for political purposes. It is the long standing opinion of this Office that this prohibition applies to compensated public employees who work either part-time or full-time. It also applies to persons who serve on public boards and commissions if they are paid any sum to perform services unless that individual is an independent contractor (see AO-90-05 and AO-90-10).

This Office has also advised that persons compensated by the state or its subdivisions may not serve as the treasurer of a political committee nor permit their names to be listed on political committee stationery as an officer or member if such stationery is to be used to solicit funds for the political committee (see AO-84-02). Such action is considered an indirect solicitation under section 13. While the campaign finance law does not prohibit a compensated public employee from serving as chairperson or other officer other than treasurer, no such officer or committee member who is so compensated may sign a fund-raising letter or participate in fund-raising meetings or strategy planning (see AO-89-11). A compensated public employee is also prohibited from hosting a fund-raising party at his/her home (see AO-84-06). Acts such as signing a fund-raising letter, participating in fund-raising strategy or hosting a fund-raising event would all be considered to be solicitation in violation of section 13. Compensated public employees may, however, perform clerical tasks such as data entry, preparation of materials for mailing and the like related to a fund-raising effort although they would not be permitted to add information to the information supplied (see AO-88-25).

II. Persons Employed Without Compensation

Persons who serve on state, county or local boards and commissions without compensation (hereinafter also referred to as "uncompensated public employees") are not prohibited by M.G.L. c.55, s.13 from soliciting funds for political purposes and, therefore, may participate in all the activities noted in the first section of this advisory opinion.

This Office does not consider persons serving on such

boards or commissions who are reimbursed for actual expenses incurred such as expenses for parking, transportation and the like as "employed for compensation". Similarly, persons who are reimbursed for expenses on a "per diem" basis are not considered to be "employed for compensation" provided the per diem rate reasonably reflects actual expenses and can be substantiated. Therefore, such persons would not be prohibited from soliciting for political purposes under section 13.

Uncompensated public employees are, however, subject to other restrictions. Specifically, M.G.L. c.55, s.15 which applies to both compensated and uncompensated public employees provides, in pertinent part:

No officer, clerk or other person in the service of the commonwealth or of any county, city or town shall, directly or indirectly, give or deliver to an officer, clerk or person in said service, or to any councillor, member of the general court, alderman, councilman or commissioner, any money or other valuable thing on account of, or to be applied to, the promotion of any political object whatever.

This section prohibits both compensated and uncompensated public employees from giving directly to another such public employee or elected official. Any funds solicited by such a public employee must be given only to the political committee organized on behalf of that candidate (see AO-82-26).

Finally, you should review the provisions of M.G.L. c.55, s.17 with particular attention regarding its relevance to Boards of Registration and the potential for abuse with which this section is concerned.

Section 17 of M.G.L. c.55 states: "No officer or employee of the commonwealth or of any county, city or town shall discharge, promote, or degrade an officer or employee, or change his official rank or compensation, or promise or threaten so to do, for giving, withholding or neglecting to make a contribution of money or other valuable thing for a political purpose."

III. Additional Provisions

In addition to the provisions of the campaign finance law referred to in parts I and II above, I call your attention to M.G.L. c.55, ss.14 and 16.

Section 14 states: "No person shall in any building or part thereof occupied for state, county or municipal purposes demand, solicit or receive any payment or gift of money or other thing of value for the purposes set forth in section thirteen."

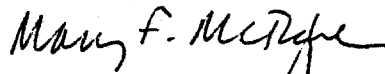
Section 16 of M.G.L. c.55 states: "No person in the public

service shall, for that reason, be under obligation to contribute to any political fund, or to render any political service, and shall not be removed or otherwise prejudiced for refusing to do so."

This opinion has been rendered solely on the basis of representations made in your letter and solely in the context of M.G.L. c.55. If you have questions regarding the conflict-of-interest law, M.G.L. c.268A, you should consult the State Ethics Commission.

I have included a copy of two Office brochures for your information. The first is a guide for public employees; the second is a guide for multi-candidate political committees. Please do not hesitate to contact this office if you have additional questions regarding campaign finance matters.

Very truly yours,



Mary F. McTigue
Director

Enclosures